SW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/560,067	04/27/2000	Brian M. Mattson	MAT-P-99-002	2478

7590 01/22/2004

Patents+TMS
A Professional Corporation
Third Floor
1914 N Milwaukee Avenue
Chicago, IL 60647

EXAMINER	
O'CONNOR, GERALD J	
ART UNIT	**PAPER NUMBER**
3627	20

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

SW

Office Action Summary

Application No.	Applicant(s)
09/560,067	Mattson
Examiner	**Art Unit**
O'Connor	3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *three* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *October 6, 2003 (Amdt "C")* .

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *9-14, 21, 22, 24, 25, and 27-29* is/are pending in the application.

4a) Of the above, claim(s) *none* is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *9-14, 21, 22, 24, 25, and 27-29* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *April 27, 2000* is/are a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Preliminary Remarks

1. This Office action responds to the amendment and arguments filed by applicant on October 6, 2003 (Paper Nº 19) in reply to the Office action mailed July 2, 2003.

2. The amendment of claim 21 and the cancellation of non-elected claims 1-8 and 15-20 by applicant in Paper Nº 19 are both hereby acknowledged.

Response to Amendment

3. The amendment submitted October 6, 2003 (Paper Nº 19) fails to comply with 37 CFR 1.121(c) because it presents claims 9-14 as "original" claims, instead of --previously amended--, despite the fact that claims 9-14 were all amended by applicant in Amendment "A" (Paper Nº 8). The necessary correction has been made and the paper entered, but all future amendments must comply with 37 CFR 1.121.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.[1]

5. Claims 25 and 27-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Lincke et al. (US 6,253,326). See, in particular, Figures 1 and 3.

Lincke et al. disclose a system and method for providing real-time information regarding a restaurant, comprising: providing a portable apparatus 100 operated by a user, wherein the portable apparatus 100 has an input means, a wireless transmission means, and a display 101; providing a form 105 on the display 101 of the portable apparatus 100, wherein the form 105 includes information that the user implements to enter as the real-time information regarding the restaurant, wherein the real-time information includes features of the restaurant, including at least one of the food served at the restaurant, service at the restaurant, and ambiance of the restaurant (see, for example, Figure 3); inputting the real-time information regarding the restaurant into the portable apparatus by the user; processing the real-time information input by the user; and, transmitting the real-time information 305 input by the user to a destination 140 remote from the restaurant.

---

[1] The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Regarding claim 27, the portable wireless apparatus 100 of Lincke et al. is a personal digital assistant.

Regarding claims 28-29, the destination 140 of Lincke et al. is a website that is accessible using a portable wireless device.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over CyberDiner Internet Cafe Systems, in view of the Blue Ginger webpage at the Boston Globe website.

CyberDiner Internet Cafe Systems comprises a restaurant, the restaurant having personal computers connected to the Internet for providing Internet access to restaurant patrons (thereby enabling the patrons to access Internet websites), the restaurant therefore inherently having within it (at each patron's computer) an apparatus comprising: an input means and a transmission means, wherein the obvious, self-evident method of use is to input real-time information into the apparatus to be transmitted remotely from the restaurant (to the Internet) by the transmission means in real-time; a receiving means; a display means connected to the apparatus that displays the information; a processing means; an input means (information being displayed simultaneously

while it is input into the processing means); and, a network (to which the patron's computer is connected) remotely receiving the information from the apparatus, the network being the Internet; but CyberDiner Internet Cafe Systems, however, does not specifically disclose that the real-time information to be entered into the apparatus would comprise real-time information concerning the restaurant, such as a review of the restaurant, nor does it disclose posting the entered and transmitted real-time information at a website outside of the restaurant for viewing by persons outside of the restaurant.

However, the Blue Ginger webpage at the Boston Globe website shows information concerning a restaurant (reviews of the restaurant) that has been entered into the Internet and posted at the website by patrons of the restaurant, where it is stored and accessed by computer, but the information is not specifically disclosed as having necessarily been entered into the Internet and transmitted to the website in real-time, while the restaurant patron was still in the restaurant.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used the system and method of CyberDiner simultaneously with the system and method of the Blue Ginger webpage at the Boston Globe (i.e., to view and post to a restaurant review page for the CyberDiner restaurant at the same site as, and comparable to, the Blue Ginger page, <ae.boston.com/dining/restaurant/>, while using the Internet access at CyberDiner to do so), so as to post a review of the CyberDiner restaurant on the Internet using the Internet access of the CyberDiner establishment, in order to post the review of the restaurant as quickly as possible, while the dining experience was still fresh in the mind of the reviewer.

8. Claims 21, 22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over CyberDiner Internet Cafe Systems, in view of the Blue Ginger webpage at the Boston Globe website, as applied to claims 9-14 above, and further in view of Koether (US 5,875,430).

CyberDiner Internet Cafe Systems comprises a restaurant, the restaurant having personal computers (personal digital assistants) connected to a local area network (LAN), the local area network being connected to a wide are network (WAN), the wide area network being the Internet, for providing Internet access to restaurant patrons (thereby enabling the patrons to access Internet websites), as applied above in the rejection of claims 9-14, but the particular connection method(s) of the personal digital assistants of CyberDiner Internet Cafe Systems to the CyberDiner local area network, whether wired or wireless, is not specifically disclosed.

However, Koether discloses a restaurant connecting various computer devices therein by means of a local area network, the restaurant's local area network being connected to a wide area network, the wide area network being the Internet, the devices thereby being able to access the Internet, and Koether indeed discloses that the connections of the local area network may be either wired or wireless, but, are preferably wireless (see, in particular, Figure 1 and the description thereof in column 5, lines 3-19).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have further modified the system and method of CyberDiner, so as to use wireless connections (if not already) for the local area network connecting the personal digital assistants, in accordance with the teachings of Koether, in order to make installation of the network easier.

Response to Arguments

9. Applicant's arguments filed Oct 6, 2003 have been fully considered but are not persuasive.

10. Applicant's arguments with respect to claims 21, 22, 24, 25, and 27-29 have been considered but are moot in view of the new ground(s) of rejection.

11. Regarding the argument that CyberDiner and the blue Ginger webpage at boston.com fail to teach transmitting real-time information regarding a restaurant, the two references when combined, indeed render obvious the transmitting of real-time information regarding a restaurant, because the CyberDiner establishment that provides a patron with access to the Internet to be able to post and review websites such as the Blue Ginger page, is actually a restaurant itself. A patron would be sitting at a table with a computer, using the computer to access restaurant review pages on the Internet (including one for CyberDiner), and being served food and beverage by a waiter, such that the patron could post their review while experiencing the restaurant (i.e., in real-time).

12. Regarding the argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., restaurant reviews being made available to other Internet users immediately after being received by the website) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to the disclosure.

14. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(703) 305-1525**, and whose facsimile number is (703) 746-3976.

The examiner can normally be reached weekdays from 9:30 to 6:00.

Inquiries of a general nature or simply relating to the status of the application should be directed to the receptionist, whose telephone number is (703) 308-1113.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Robert Olszewski, can be reached at (703) 308-5183.

Official replies to this Office action may be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies are preferred and should be directed to (703) 872-9306** (fax-back auto-reply receipt service provided). Mailed replies should be addressed to "Commissioner of Patents and Trademarks, Washington, DC 20231." Hand delivered replies should be left with the receptionist on the seventh floor of Crystal Park Five, 2451 Crystal Dr, Arlington, VA 22202.

GJOC

December 29, 2003

12-29-03

Gerald J. O'Connor

Patent Examiner

Group Art Unit 3627